

Chairman Stoker and members of the House Judiciary Committee,

Although I cannot be present for oral testimony today, I am submitting the following written testimony for the record opposing SB 121 – Allow COPP to apply for court order to compel obedience to subpoena.

I urge the entire committee to vote NO on this bill for many reasons, including the following.

If SB 121 becomes law the full power of the court could and would be used for political harassment, not based on specific violations of state law, but for fishing expeditions looking for political ammunition to use against opponents. SB 121 greatly expands Montana Political Practices authority to use court ordered subpoenas with out clearly defining the violation of law and limiting the scope of their investigation to that violation.

SB 121 would also substantially ratchet up the Judicial Branch's influence in the out come of elections in Montana. The full power of the Montana Judicial branch could and would be used for political harassment prior to any determination of the merits of partisan political complaints.

SB 121 burdens the court by demanding that what is often times frivolous partisan bickering would have to be expedited ahead of serious legal issues.

SB 121 requires the accused person has to justify their reasoning for refusing to provide what maybe proprietary information. The accused faces the real possibility of being held in contempt of court, while refusing to release information that has nothing to do with the complaint, or political practices law. SB 121 is a reversal of current procedures that require a prosecutor to justify the need for specific information to justify the prosecution of an alleged violation.

Upon receiving a complaint with SB 121, Montana Political Practices with this expanded authority would in essence create an immediate civil action rather than simply investigating allegations. This goes far beyond what the intended duties of "Montana Political Practices" have ever been. Seeing as there are currently 43 outstanding complaints, possibly an all time record number, Montana Political Practices are not currently accomplishing the commissioner's assigned duties. The commissioner should not be given more responsibilities, and further expand Commissioner Unsworth's work load.

Montana Political Practices currently are obligated to complete an investigation. Following the investigation the Commissioner reports his findings and his opinion in regard to alleged violations of Montana Law. The findings of the investigation are turned over to the county attorney of the jurisdiction in which the accused party resides to be locally prosecuted. The prosecuting attorney has the "right of discovery" and can receive court ordered subpoenas. If a subpoena is ordered and not fulfilled, the person under investigation can be charged with contempt of court. Currently a duly-elected county attorney must file the subpoena and be willing to defend the need for that information before a duly-elected judge. The judge must agree, based on the facts of the investigation by Montana Political Practices, that there is a compelling need for expansion of the case for the purpose of prosecuting the alleged violations of state law.

The original intent of SB 121 would have also forced every issue of compliance into the Helena District Courts, thankfully the Senate amended SB 121 to allow the accused to stand before their own district courts, which is a small consolation to those who have to face this type of harassment. (at least they don't have to travel several hundred miles to face a very partisan Helena judge) However, with the proposed expansion of powers for the Commissioner, there is no guarantee that these powers would not be simply expanded in the future.

SB 121 is very bad legislation that further expands a fundamentally flawed system.

I urge you to vote AGAINST SB 121.

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Jesus answered, "I am the way, the truth, and the life. No one comes to the Father but through me." John 14:6 NIV